



9111-28

## DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2016-0073]

Privacy Act of 1974; Department of Homeland Security United States Immigration

Customs and Enforcement – 011 Criminal Arrest Records and Immigration Enforcement

Records System of Records

**AGENCY:** Department of Homeland Security, Privacy Office.

**ACTION:** Notice of Privacy Act System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to update, rename, and reissue a current DHS system of records titled, “DHS//U.S. Immigration and Customs Enforcement (ICE)-011 Immigration and Enforcement Operational Records (ENFORCE)” system of records. DHS/ICE collects, uses, and maintains ENFORCE to support the identification, apprehension, and removal of individuals unlawfully entering or present in the United States in violation of the Immigration and Nationality Act, including fugitive aliens. DHS/ICE also uses ENFORCE to support the identification and arrest of individuals (both citizens and non-citizens) who commit violations of federal criminal laws enforced by DHS. This system of records is being created from a previously issued system of records, DHS/ICE 011-Immigration and Enforcement Operational Records (ENFORCE). See 80 FR 24,269 (Apr. 30, 2015).

DHS/ICE is updating this system of records to: change the system of records name to “DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records

(CARIER)” System of Records; update and reorganize the categories of individuals for clarity; expand the categories of records to include recordings of detainee telephone calls and information about these calls, as well as information related to detainees’ accounts for telephone or commissary services in a detention facility; update the system manager; clarify system location; and add twenty-five routine uses and modify twenty routine uses to describe how the Department of Homeland Security may share information from this system. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

This updated system will be included in the Department of Homeland Security’s inventory of record systems.

**DATES:** Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This updated system will be effective **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by docket number DHS-2016-0073 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-343-4010.
- Mail: Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

**INSTRUCTIONS:** All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**DOCKET:** For access to the docket to read background documents or comments received, please visit <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact: Amber Smith, (202-732-3300), Privacy Officer, U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Mail Stop 5004, Washington, D.C. 20536. For privacy questions, please contact: Jonathan R. Cantor, (202-343-1717), Acting Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, D.C. 20528.

**SUPPLEMENTARY INFORMATION:**

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DHS/ICE is updating, renaming, and reissuing a DHS system of records now titled, “DHS/Immigration and Enforcement (ICE)-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER) System of Records.”

The DHS/ICE update to CARIER includes several changes. First, the system of records is being renamed to better align it with the purpose of the system. This system of records covers records documenting ICE’s criminal arrests, and also those documenting most of ICE’s immigration enforcement actions, such as the issuance of immigration detainers; the arrests, charging, detention, and removal of aliens for administrative immigration violations; the search for and apprehension of fugitive aliens; and ICE

decisions concerning the grant or denial of parole to aliens. This system of records is being created from a previously issued system of records named, DHS/ICE 011-Immigration and Enforcement Operational Records (ENFORCE), 80 FR 24,269 (Apr. 30, 2015).

Second, this update seeks to clarify the types of individuals whose information is contained in this system of records. Some items in the category of individuals section have been reorganized and edited to more clearly identify the individuals whose records may be present in this system of records.

Third, the categories of records section has been expanded to provide a more detailed and complete list of the types of information contained in the system of records. The new categories of records added to the system of records are domestic and foreign criminal history information; information related to detainees' accounts for telephone or commissary services in a detention facility; and video recordings of detainees. The CARIER system of records also contains detainee voiceprints used to verify identity when a detainee is released under an alternative to detention program, as well as the actual audio recordings of detainee "check-in" telephone calls. Additionally, the CARIER system of records contains recordings of detainee telephone calls made from a detention facility and information about these calls such as the date, time, duration, and telephone number called (Note: information for protected telephone calls, such as calls with an attorney, is not recorded).

Fourth, the system location and security classification have been updated to indicate that certain records may be replicated from ICE's Enforcement Integrated Database (EID) and stored on both DHS unclassified and classified networks to allow for

analysis and vetting consistent with existing DHS/ICE authorities and purposes and this published notice.

Fifth, the title of the system manager has been updated.

Finally, DHS is proposing to add new routine uses that would allow ICE to share information from the CARIER system of records with the specified recipients for the specified purpose. DHS is also proposing to delete several routine uses and modify several others to clarify their meaning and/or to expand or limit the scope of the information shared. Several of the routine uses being added to or updated in the CARIER SORN are the same routine uses included in the Department of Homeland Security/U.S. Customs and Immigration Services (USCIS)/ICE/Customs and Border Protection (CBP)-001 Alien File, Index, and National File Tracking (A-File) SORN. 78 FR. 69,864, (Nov. 21, 2013). Although both SORNs support the immigration enforcement mission, they often contain different information about aliens that may need to be shared. Therefore, identical or similar routine uses may be needed in both SORNs to ensure that immigration information can be shared as needed for law enforcement and other authorized purposes.

Below is a summary of the new routine uses and their corresponding letter:

(H) To prospective claimants and their attorneys for the purpose of negotiating the settlement of an actual or prospective claim against DHS or its current or former employees, in advance of the initiation of formal litigation or proceedings;

(J) To federal, state, local, tribal, or territorial government agencies, or other entities or individuals, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information for the purposes of national security, intelligence, counterintelligence, or antiterrorism

activities authorized by U.S. law, E.O., or other applicable national security directive;

(K) To federal and foreign government intelligence or counterterrorism agencies or components when DHS becomes aware of an indication of a threat or potential threat to national or international security, or when such disclosure is to support the conduct of national intelligence and security investigations or to assist in anti-terrorism efforts;

(P) To disclose information to the U.S. Department of Justice (DOJ) Executive Office of Immigration Review (EOIR) and to the Board of Immigration Appeals (the entities that adjudicate immigration cases), to the extent necessary to carry out their authorized duties pertaining to the adjudication of matters arising under the INA;

(DD) To DOJ and other law enforcement or custodial agencies to facilitate payments and reporting under the State Criminal Alien Assistance Program or similar programs;

(EE) To any law enforcement agency or custodial agency (such as a jail or prison) to serve that agency with notice of an immigration detainer, or to update or remove a previously issued immigration detainer, for an individual believed to be in that agency's custody;

(MM) To courts, magistrates, administrative tribunals, opposing counsel, parties, and witnesses, in the course of immigration, civil, or criminal proceedings (including discovery, presentation of evidence, and settlement negotiations), and when DHS determines that use of such records is relevant and necessary to the litigation before a court or adjudicative body when any of the following is a party to or have an interest in the litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;
3. Any employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or
4. The United States, when DHS determines that litigation is likely to affect DHS or any of its components.

(NN) To federal, state, local, tribal, territorial, international, or foreign government agencies or entities for the purpose of consulting with that agency or entity:

1. To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program;
2. To verify the identity of an individual seeking redress in connection with the operations of a DHS component or program; or
3. To verify the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

(OO) To federal, state, local, tribal, territorial, or foreign governmental agencies; multilateral governmental organizations; or other public health entities, for the purposes of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations during an epidemiological investigation, in facilitating continuity of care, in preventing exposure to or transmission of a communicable or quarantinable disease of public health significance, or to combat other significant public health threats.

(PP) To foreign governments for the purpose of providing information about their citizens or permanent residents, or family members thereof, during local or national disasters or health emergencies;

(QQ) To a coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime) or cause of death;

(RR) To a former employee of DHS for purposes of responding to an official inquiry by federal, state, local, tribal, or territorial government agencies or professional licensing authorities; or facilitating communications with a former employee that may be relevant and necessary for personnel-related or other official purposes, when DHS requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility;

(SS) To federal, state, local, tribal, territorial, foreign, or international agencies, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or the issuance, grant, renewal, suspension or revocation of a security clearance, license, contract, grant, or other benefit; or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit;

(TT) To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of licensed professionals or who those seeking to become licensed professionals;

(UU) To an attorney or representative (as defined in 8 CFR 1.2, 202.1, 1001.1(f), or 1202.12) who is acting on behalf of an individual covered by this system of records in



connection with any proceeding before U.S. Citizenship and Immigration Services (USCIS), ICE, U.S. Customs and Border Protection (CBP), or the EOIR, as required by law or as deemed necessary in the discretion of the Department;

(VV) To members of the public, with regard to disclosure of limited detainee biographical information for the purpose of facilitating the deposit of monies into detainees' accounts for telephone or commissary services in a detention facility;

(WW) To federal, state, local, tribal, or territorial government agencies seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law;

(XX) To DOJ or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when necessary to assist in the development of such agency's legal and/or policy position;

(YY) To federal, state, local, tribal, and territorial courts or government agencies involved in criminal investigation or prosecution, pre-trial, sentencing, parole, probation, bail bonds, or any other aspect of the criminal justice process, and to defense counsel representing an individual in a domestic criminal proceeding, in order to ensure the integrity and efficiency of the criminal justice system by informing these recipients of the existence of an immigration detainer or the individual's status in removal proceedings, including removal or custodial status/location. Disclosure of the individual's Alien Registration Number (A-Number) and country of birth is also authorized to facilitate these recipients' use of the ICE Online Detainee Locator System for the purposes listed above;

(ZZ) To a foreign government to notify it concerning its citizens or residents who are incapacitated, an unaccompanied minor, or deceased;

(AAA) To family members, guardians, committees, friends, or other agents identified by law or regulation to receive notification, decisions, and other papers as provided in 8 C.F.R. 103.8 from DHS or EOIR following verification of a familial or agency relationship with an alien when DHS is aware of indicia of incompetency or when an alien has been determined to be mentally incompetent by an immigration judge;

(BBB) To an organization or person in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, or when the information is relevant to the protection of life, property, or other vital interests of a person.

(CCC) To clerks and judges of courts exercising naturalization jurisdiction for the purpose of granting or revoking naturalization.

(DDD) To federal, state, local, tribal, territorial, foreign, or international agencies, after discovery of such information, if DHS determines: (1) The information is relevant and necessary to that agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; and (2) Failure to disclose the information is likely to create a substantial risk to government facilities, equipment or personnel; sensitive information; critical infrastructure; or public safety.

Below is a summary of the routine uses that are proposed to be modified or deleted, and their corresponding letter:

(A) Expanded scope to include sharing with the Offices of the United States Attorneys. Also removed sharing with a court, magistrate, administrative tribunal, opposing counsel, parties, and witnesses because routine use LL now permits sharing with these recipients.

(C) Updated to note that records will be provided specifically to the General Services Administration rather than to other Federal Government agencies.

(D) Updated to clarify that records will not be given to individuals, but to agencies or organizations performing the audit.

(E) Updated to add the risk of identity theft or fraud, and harm to economic or property interests as additional risks that DHS may determine may be a result of the suspected or confirmed compromise.

Routine use H in the previous version of the SORN, which authorized disclosure during court proceedings, has been removed and replaced by new routine use MM. The new routine use contains improved wording that is clearer about when disclosures may be made under these circumstances.

(I) Updated to enable DHS to share information when it deems that such disclosure is necessary to carry out its functions and statutory mandates.

(J) Former routine uses J and K have been removed and the sharing they permitted is now combined into one routine use that authorizes disclosure for the purposes of national security, intelligence, counterintelligence, or antiterrorism activities.

Routine use L in the previous version of the SORN has been removed and replaced by a new routine use K permitting sharing with federal and foreign government

intelligence or counterterrorism agencies or components in support of national intelligence and security investigations or to assist in anti-terrorism efforts.

(N) Updated to clarify that in disclosing custodial location to family members, attorneys, and other agents acting on the behalf of an alien, the agency may also disclose if the alien was released from ICE custody and/or transferred to the custody of another agency. This authority was implied but not expressly stated in the previous version of routine use N. Also modified to clarify that disclosure is authorized to attorneys representing the alien in any legal proceeding, not only immigration proceedings.

(O) Updated to clarify that information can be shared for other purposes or activities within the scope of the EOIR contract.

(R) (previously routine use Q) Expanded scope to include sharing with domestic courts and to clarify agencies collecting the repayment of loans, or fraudulently or erroneously secured benefits.

(V) (previously routine use U) Expanded scope to include prosecutions and/or other law enforcement actions.

(W) (previously routine use V) Expanded scope to include sharing with federal, state, local, tribal, or territorial law enforcement or correctional agencies concerning individuals in ICE custody that are to be transferred to such agency's custody, in order to coordinate the transportation, custody, and care of the individuals.

(X) (previously routine use W) Expanded scope to include sharing in order to arrange other social services.

(Y) (previously routine use X) Updated to replace ICE with DHS.

(BB) (previously routine use CC) Expanded the sharing of custodial information to witnesses and individuals with a legal responsibility to act on behalf of or acting at the request of a victim or witness, as well as external victim notification systems.

(CC) (previously routine use Y) Scope is narrowed to exclude sharing in order to place an immigration detainer on an individual. Sharing in order to place a detainer is now covered by routine use DD. Additionally, this routine use previously was used when ICE was transferring an individual to another agency. It has been expanded to allow sharing during the course of transfer of custody of an individual either to or from ICE's custody.

(HH) (previously routine use BB) Expanded scope to include sharing with the attorney or guardian ad litem of an individual's child for purposes of allowing the attorney/guardian to identify the location or status of the individual.

(KK) (previously routine use FF) Expanded scope to include sharing with territorial government agencies or entities or multinational governmental agencies. It also expands the purposes of the sharing to developing and implementing new software or technology when the purpose of the software or technology is related to this system of records.

(LL) (previously routine use GG) Former routine use GG has been removed and the sharing it permitted is now contained in two new routine uses to improve clarity: routine use LL permitting the disclosure of information via the ICE Online Detainee Locator System or any successor system, and routine use VV permitting the disclosure of information to facilitate the deposit of monies into detainees' accounts for telephone or commissary services in a detention facility.

Finally, there have been changes regarding the retention period for some records. Retention periods have been added for records concerning paroled aliens and fugitive aliens maintained in certain ICE information systems. Also, the fingerprints and photographs collected using the booking application EID Arrest Guide for Law Enforcement (EAGLE), previously known as Mobile IDENT, originally were stored for up to seven (7) days in the cache of an encrypted Government laptop or other IT device. Now they are stored for up to fifty (50) days.

Consistent with DHS's information sharing mission, information stored in the DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/ICE may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This updated system will be included in DHS's inventory of record systems.

## II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S.

citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER) System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

**System of Records**

Department of Homeland Security (DHS)/U.S. Immigration and Enforcement Operations (ICE)-011

**System name:**

DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records

**Security classification:**

Unclassified; Controlled Unclassified Information (CUI). The data may be retained on the classified networks, but this does not change the nature and character of the data until it is combined with classified information.

**System location:**

Records are maintained at DHS/ICE information technology (IT) systems (e.g., the EID and the various ICE applications associated with it, Parole Case Tracking System (PCTS), Online Detainee Locator System (ODLS), Electronic Travel Document (eTD) System, the contractor-owned IT system supporting ICE's Alternatives to Detention (ATD) program) and associated electronic and paper files located at ICE Headquarters in Washington, D.C., ICE field and attaché offices, contractor offices, and detention

facilities operated by or on behalf of ICE, or that otherwise house individuals arrested or detained by ICE. Records are replicated from the operational DHS/ICE IT systems and maintained on DHS unclassified and classified networks used for analysis and vetting.

**Categories of individuals covered by the system:**

Categories of individuals covered by this system include (1) individuals arrested, detained, or removed from the United States for criminal or administrative violations of the Immigration and Nationality Act, or individuals issued a Notice to Appear in immigration court; (2) individuals who are the subject of an immigration detainer issued to another law enforcement or custodial agency; (3) individuals arrested by ICE for violations of criminal laws enforced by ICE or DHS; (4) individuals who fail to leave the United States after receiving a final order of removal, deportation, or exclusion, or who fail to report to ICE for removal after receiving notice to do so (fugitive aliens); (5) individuals who illegally re-enter the United States after departing pursuant to an order of voluntary departure or being removed from the United States (illegal re-entrants); (6) individuals who request to be removed at their own expense or are eligible for voluntary removal from the United States pursuant to sec. 250 of the Immigration and Nationality Act; (7) individuals who are granted parole into the United States under sec. 212(d)(5) of the Immigration and Nationality Act (parolees); (8) attorneys or representatives who represent individuals listed in the categories above; (9) other individuals whose information may be collected or obtained during the course of an immigration enforcement or criminal matter, such as witnesses, associates, and relatives; (10) persons who post or arrange bond for the release of an individual from ICE detention, or receive custodial property of a detained alien; and (11) prisoners of the U.S. Marshals Service



held in ICE detention facilities.

**Categories of records in the system:**

Biographic, biometric, descriptive, historical, and other identifying data, including:

- Full Name;
- Alias(es);
- A-Number;
- Social Security number (SSN);
- Date of birth;
- Place of birth;
- Nationality;
- Fingerprint Identification Number (FIN);
- Federal Bureau of Investigation (FBI) number;
- Other unique identifying numbers (e.g., federal, state, local and tribal identification numbers);
- Government-issued identification (e.g., passport, drivers' license):
  - Document type;
  - Issuing organization;
  - Document number;
  - Expiration date;
- Visa information;
- Contact or location information (e.g., known or possible addresses, phone numbers);

- Employment history;
- Education history;
- Immigration history (e.g., citizenship/naturalization certificate number, removals, explanations);
- Domestic and foreign criminal history (e.g., arrest, charges, dispositions, and sentencing, corresponding dates, jurisdictions);
- Physical Description (e.g., height, weight, eye color, hair color, race, ethnicity, identifying marks like scars, tattoos, or birthmarks);
- Biometric (i.e., fingerprints, voiceprints, iris images, photographs, and DNA samples). DNA samples required by DOJ regulation (see 28 CFR part 28) are collected and sent to the FBI. DNA samples are not retained or analyzed by DHS; and
- Information pertaining to ICE's collection of DNA samples, limited to the date and time of a successful collection and confirmation from the FBI that the sample was able to be sequenced. ICE does not receive or maintain the results of the FBI's DNA analysis (i.e., DNA sequences).

Case-related data:

- Case number;
- Record number;
- Case category;
- Charges brought and disposition;
- Case agent;
- Data initiated and completed; and

- Other data describing an event involving alleged violations of criminal or immigration law (i.e., location; date; time; type of criminal or immigration law violations alleged; type of property involved; use of violence, weapons, or assault against DHS personnel or third parties; attempted escape; and other related information).

Information presented to or collected by ICE during immigration and law enforcement proceedings or activities:

- Date of birth;
- Place of birth;
- Marital status;
- Education history;
- Employment history;
- Travel history; and
- Other information derived from affidavits, certificates, manifests, and other documents. This data typically pertains to subjects, relatives, associates, and witnesses.

Detention data on aliens:

- Immigration detainers issued;
- Transportation information;
- Detention-related identification numbers;
- Detention facility;
- Security, risk, and custody classification;
- Custody recommendation;

- Flight risk indication;
- Book-in/book-out date and time;
- Mandatory detention and criminal flags;
- Aggravated felon status;
- Other alerts;
- Information about an alien's release from custody on bond, recognizance, or supervision;
- Information related to prosecutorial discretion determinations;
- Property inventory and receipt;
- Information related to disciplinary issues or grievances;
- Documents and video recordings related to alleged misconduct and other incidents involving detainees; and
- Other detention-related information (e.g., documentation of an allegation of sexual abuse or assault, documentation of strip and body cavity searches, documentation of reasons for segregation or other housing placement, documentation of participation in the orientation process).

Detention data for U.S. Marshals Service prisoners:

- Full Name;
- Date of birth;
- Country of birth;
- Identification numbers (e.g., detainee, FBI, state);
- Book-in/book-out date and time; and

- Security classification.

Limited health information relevant to an individual's placement in an ICE detention facility or transportation requirements:

- Medical alerts or general information on physical disabilities or other special needs or vulnerabilities to facilitate placement in a facility or bed that best accommodates these needs. Medical records about individuals in ICE custody (i.e., records relating to the diagnosis or treatment of individuals) are maintained in DHS/ICE – 013 Alien Medical Records System of Records.

Progress, status, and final result of removal, prosecution, and other DHS processes and related appeals:

- Information relating to criminal convictions;
- Incarceration;
- Travel documents; and
- Other information pertaining to the actual removal of aliens from the United States.

Contact, biographical, and identifying data about Relatives, Attorneys or Representatives, Associates or Witnesses of an alien in proceedings initiated or conducted by DHS may include:

- Full Name;
- Date of birth;
- Place of birth; and
- Contact or location information (e.g., addresses, phone numbers, business, or agency name).

Data concerning personnel of other agencies that arrested, or assisted or participated in the arrest or investigation of, or are maintaining custody of an individual whose arrest record is contained in this system of records may include:

- Full Name;
- Title;
- Contact or location information (e.g., addresses, phone numbers, business, or agency name); and
- Other information.

Data about persons who post or arrange an immigration bond for the release of an individual from ICE custody, or receive custodial property of an individual in ICE custody may include:

- Full Name;
- Address;
- Phone numbers;
- SSN; and
- Other information.

Recordings of detainee telephone calls when responding as part of an alternative to detention program or of detainee calls made in detention facilities. Information about these calls may include:

- Date;
- Time;
- Duration; and
- Phone number called. (Note: protected telephone calls, such as calls with an

attorney, are not recorded and information about protected telephone calls is not retained.)

Information related to detainees' accounts for telephone or commissary services in a detention facility.

**Authority for maintenance of the system:**

Authority for maintain this system is in 8 U.S.C. sec. 1103, 1225, 1226, 1324, 1357, 1360, and 1365(a)(b); Title 18, United States Code, Chapters 27, 77, 85, 95, 109A, 110, 113, and 117; Title 31, United States Code, Chapter 53, Subchapter II; Title 50 Appendix, United States Code; The Tariff Act of 1930; Justice for All Act of 2004 (Public Law 108-405); DNA Fingerprint Act of 2005 (Pub. L. 109-162); Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248); and 28 CFR Part 28, "DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction;" DHS Delegation Number 7030.2, Delegation of Authority to the Assistant Secretary for the Bureau of Immigration and Customs Enforcement and the Reorganization Plan Modification for the Department of Homeland Security (January 30, 2003).

**Purpose(s):**

The purposes of this system are:

1. To support the identification, arrest, charging, detention, and removal of individuals unlawfully entering or present in the United States in violation of the Immigration and Nationality Act, including fugitive aliens and illegal re-entrants.
2. To support the identification and arrest of individuals (both citizens and non-citizens) who commit violations of criminal laws enforced by ICE or DHS.
3. To track the process and results of administrative and criminal proceedings

against individuals who are alleged to have violated the Immigration and Nationality Act or other laws enforced by DHS.

4. To support the grant or denial of parole, and tracking of individuals who seek or receive parole into the United States.

5. To provide criminal and immigration history information during DHS enforcement encounters, and to support background checks on applicants for DHS immigration benefits (e.g., employment authorization and petitions).

6. To identify potential criminal activity, immigration violations, and threats to homeland security; to uphold and enforce the law; and to ensure public safety.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the United States Attorneys, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or



4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS' efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other

assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, local, tribal, territorial, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation, enforcing, or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To prospective claimants and their attorneys for the purpose of negotiating the settlement of an actual or prospective claim against DHS or its current or former employees, in advance of the initiation of formal litigation or proceedings.

I. To federal, state, local, tribal, territorial, or foreign government agencies, as well as to other individuals and organizations during the course of an investigation by DHS or the processing of a matter under DHS's jurisdiction, or during a proceeding within the purview of immigration and nationality laws, when DHS deems that such disclosure is necessary to carry out its functions and statutory mandates or to elicit information required by DHS to carry out its functions and statutory mandates.

J. To federal, state, local, tribal, or territorial government agencies, or other entities or individuals, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information

for the purposes of national security, intelligence, counterintelligence, or antiterrorism activities authorized by U.S. law, E.O., or other applicable national security directive.

K. To federal and foreign government intelligence or counterterrorism agencies or components when DHS becomes aware of an indication of a threat or potential threat to national or international security, or when such disclosure is to support the conduct of national intelligence and security investigations or to assist in anti-terrorism efforts.

L. To any federal agency to enable such agency to make determinations regarding the payment of federal benefits to the record subject in accordance with that agency's statutory responsibilities.

M. To foreign governments for the purpose of coordinating and conducting the removal of aliens from the United States to other nations under the Immigration and Nationality Act (INA); and to international, foreign, intergovernmental, and multinational agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

N. To family members and attorneys or other agents acting on behalf of an alien in immigration or other legal proceedings, to assist those individuals in determining whether: (1) the alien has been arrested by DHS for immigration violations; (2) the location of the alien if in DHS custody; or (3) the alien has been removed from the United States, released from DHS custody, or transferred to the custody of another agency, provided however, that the requesting individuals are able to verify the alien's date of birth or A-Number, or can otherwise present adequate verification of a familial or agency relationship with the alien, such as a Form G-514 or other proof of representation in a legal proceeding (e.g., notice of appearance, court appointment).

O. To the DOJ Executive Office of Immigration Review (EOIR) or its contractors, consultants, or others performing or working on a contract for EOIR, for the purpose of providing information about aliens who are or may be placed in removal proceedings so that EOIR may arrange for the provision of educational services to those aliens under EOIR's Legal Orientation Program, or for other purposes or activities within the scope of the EOIR contract.

P. To disclose information to the DOJ EOIR and to the Board of Immigration Appeals, to the extent necessary to carry out their authorized duties pertaining to the adjudication of matters arising under the INA.

Q. To attorneys or legal representatives for the purpose of facilitating group presentations to aliens in detention that will provide the aliens with information about their rights under U.S. immigration law and procedures.

R. To federal, state, tribal, territorial, or local government agencies or domestic courts to assist such agencies in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to them or to the United States Government, or to obtain information that may assist DHS in collecting debts owed to the United States Government.

S. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws including treaties and reciprocal agreements; or when the Department of State requires information to consider or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

T. To the Office of Management and Budget (OMB) in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

U. To the U.S. Senate Committee on the Judiciary or the U.S. House of Representatives Committee on the Judiciary when necessary to inform members of Congress about an alien who is being considered for private immigration relief.

V. To federal, state, local, territorial, tribal, international, or foreign criminal, civil, or regulatory law enforcement authorities when the information is necessary for collaboration, coordination and de-confliction of investigative matters, prosecutions, and/or other law enforcement actions to avoid duplicative or disruptive efforts and to ensure the safety of law enforcement officers who may be working on related law enforcement matters.

W. To the U.S. Marshals Service (USMS) concerning USMS prisoners that are or will be held in detention facilities operated by or on behalf of ICE, and to federal, state, local, tribal, or territorial law enforcement or correctional agencies concerning individuals in DHS custody that are to be transferred to such agency's custody, in order to coordinate the transportation, custody, and care of these individuals.

X. To third parties to facilitate placement or release of an individual (e.g., at a group home, homeless shelter) who has been or is about to be released from DHS custody but only such information that is relevant and necessary to arrange housing, continuing medical care, or other social services for the individual.

Y. To a domestic government agency or other appropriate authority for the purpose of providing information about an individual who has been or is about to be

released from DHS custody who, due to a condition such as mental illness, may pose a health or safety risk to himself/herself or to the community. DHS will only disclose information about the individual that is relevant to the health or safety risk they may pose and/or the means to mitigate that risk (e.g., the individual's need to remain on certain medication for a serious mental health condition).

Z. To a domestic law enforcement agency or other agency operating a sex offender registry for the purpose of providing notice of an individual's release from DHS custody or removal from the United States, when the individual is required to register as a sex offender, in order to assist those agencies in updating sex offender registries and otherwise carrying out the sex offender registration requirements within their jurisdictions.

AA. To a domestic law enforcement agency for the purpose of providing notice of an individual's release from DHS custody or removal from the United States, when the individual has a conviction(s) for a violent or serious crime(s) and the agency receiving the notification has an interest in the individual due to: (1) a pending investigation or prosecution, (2) parole or other forms of supervision, or (3) the individual's intended residence or location of release falling within the agency's jurisdiction.

BB. To victims and witnesses regarding custodial information, such as transfer to another custodial agency or location, release on bond, order of supervision, removal from the United States, or death in custody, about an individual who is the subject of a criminal or immigration investigation, proceeding, or prosecution. This would also authorize disclosure of custodial information to individuals with a legal responsibility to act on behalf of a victim or witness (e.g., attorney, parent, legal guardian) and individuals acting

at the request of a victim or witness; as well as external victim notification systems that make such information available to victims and witnesses in electronic form.

CC. To the Federal Bureau of Prisons (BOP) and other federal, state, local, territorial, tribal, and foreign law enforcement or custodial agencies for the purpose of facilitating the transfer of custody of an individual to or from that agency. This will include the transfer of information about unaccompanied minor children to the U.S. Department of Health and Human Services (HHS) to facilitate the custodial transfer of such children from DHS to HHS.

DD. To DOJ and other law enforcement or custodial agencies to facilitate payments and reporting under the State Criminal Alien Assistance Program or similar programs.

EE. To any law enforcement agency or custodial agency (such as a jail or prison) to serve that agency with notice of an immigration detainer, or to update or remove a previously issued immigration detainer, for an individual who is believed to be in that agency's custody.

FF. To DOJ, disclosure of DNA samples and related information as required by 28 CFR part 28.

GG. To DOJ, disclosure of arrest and removal information for inclusion in relevant DOJ law enforcement databases and for use in the enforcement of federal firearms laws (e.g., Brady Handgun Violence Prevention Act, as amended by the NICS Improvement Amendments Act).

HH. To the attorney or guardian ad litem of an individual's child, or to federal, state, local, tribal, territorial, or foreign governmental or quasi-governmental agencies or

courts, to confirm the location, custodial status, removal, or voluntary departure of an individual from the United States, in order to facilitate the recipients' exercise of responsibilities pertaining to the custody, care, or legal rights (including issuance of a U.S. passport) of the individual's children, or the adjudication or collection of child support payments or other similar debts owed by the individual.

II. To any person or entity to the extent necessary to prevent immediate loss of life or serious bodily injury, such as disclosure of custodial release information to witnesses who have received threats from individuals in custody.

JJ. To an individual or entity seeking to post or arrange, or who has already posted or arranged, an immigration bond for an alien to aid the individual or entity in (1) identifying the location of the alien; (2) posting the bond; (3) obtaining payments related to the bond; or (4) conducting other administrative or financial management activities related to the bond.

KK. To federal, state, local, tribal, territorial, or foreign government agencies or entities or multinational governmental agencies when DHS desires to exchange relevant data for the purpose of developing, testing, or implementing new software or technology whose purpose is related to this system of records.

LL. Limited detainee biographical information will be publicly disclosed via the ICE Online Detainee Locator System or any successor system for the purpose of identifying whether a detainee is in ICE custody and the custodial location.

MM. To courts, magistrates, administrative tribunals, opposing counsel, parties, and witnesses, in the course of immigration, civil, or criminal proceedings (including discovery, presentation of evidence, and settlement negotiations) and when DHS



determines that use of such records is relevant and necessary to the litigation before a court or adjudicative body when any of the following is a party to or have an interest in the litigation:

1. DHS or any component thereof;
2. Any employee of DHS in his/her official capacity;
3. Any employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or
4. The United States, when DHS determines that litigation is likely to affect DHS or any of its components.

NN. To federal, state, local, tribal, territorial, international, or foreign government agencies or entities for the purpose of consulting with that agency or entity:

1. To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program;
2. To verify the identity of an individual seeking redress in connection with the operations of a DHS component or program; or
3. To verify the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

OO. To federal, state, local, tribal, territorial, or foreign governmental agencies; multilateral governmental organizations; or other public health entities, for the purposes of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations during an epidemiological investigation, in facilitating continuity of care, in preventing exposure to or transmission of a communicable or

quarantinable disease of public health significance, or to combat other significant public health threats.

PP. To foreign governments for the purpose of providing information about their citizens or permanent residents, or family members thereof, during local or national disasters or health emergencies.

QQ. To a coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime) or cause of death.

RR. To a former employee of DHS for purposes of responding to an official inquiry by federal, state, local, tribal, or territorial government agencies or professional licensing authorities; or facilitating communications with a former employee that may be relevant and necessary for personnel-related or other official purposes, when DHS requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

SS. To federal, state, local, tribal, territorial, foreign, or international agencies, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or the issuance, grant, renewal, suspension or revocation of a security clearance, license, contract, grant, or other benefit; or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

TT. To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or

potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of licensed professionals or those seeking to become licensed professionals.

UU. To an attorney or representative (as defined in 8 CFR 1.2, 202.1, 1001.1(f), or 1202.12) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before U.S. Citizenship and Immigration Services (USCIS), ICE, U.S. Customs and Border Protection (CBP), or the EOIR, as required by law or as deemed necessary in the discretion of the Department.

VV. To members of the public, with regard to disclosure of limited detainee biographical information for the purpose of facilitating the deposit of monies into detainees' accounts for telephone or commissary services in a detention facility.

WW. To federal, state, local, tribal, or territorial government agencies seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.

XX. To the Department of Justice (including Offices of the United States Attorneys) or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when necessary to assist in the development of such agency's legal and/or policy position.

YY. To federal, state, local, tribal, and territorial courts or government agencies involved in criminal investigation or prosecution, pre-trial, sentencing, parole, probation, bail bonds, or any other aspect of the criminal justice process, and to defense counsel representing an individual in a domestic criminal proceeding, in order to ensure the integrity and efficiency of the criminal justice system by informing these recipients of the

existence of an immigration detainer or the individual's status in removal proceedings, including removal or custodial status/location. Disclosure of the individual's A-Number and country of birth is also authorized to facilitate these recipients' use of the ICE Online Detainee Locator System for the purposes listed above.

ZZ. To a foreign government to notify it concerning its citizens or residents who are incapacitated, an unaccompanied minor, or deceased.

AAA. To family members, guardians, committees, friends, or other agents identified by law or regulation to receive notification, decisions, and other papers as provided in 8 CFR 103.8 from the Department of Homeland Security or Executive Office for Immigration Review following verification of a familial or agency relationship with an alien when DHS is aware of indicia of incompetency or when an alien has been determined to be mentally incompetent by an immigration judge.

BBB. To an organization or person in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, or when the information is relevant to the protection of life, property, or other vital interests of a person.

CCC. To clerks and judges of courts exercising naturalization jurisdiction for the purpose of granting or revoking naturalization.

DDD. To federal, state, local, tribal, territorial, foreign, or international agencies, after discovery of such information, if DHS determines: (1) The information is relevant and necessary to that agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; and (2) Failure to disclose the information is likely to create a substantial risk to

government facilities, equipment, or personnel; sensitive information; critical infrastructure; or public safety.

EEE. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

**Disclosure to consumer reporting agencies:**

None.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

ICE may store information in case file folders, cabinets, safes, or a variety of electronic or computer databases and storage media.

**Retrievability:**

ICE may retrieve records by name, biometric identifiers, identification numbers including, but not limited to, A-Number, fingerprint identification number, SSN, case or record number if applicable, case related data, or a combination of other personal identifiers including, but not limited to, date of birth, and nationality.

**Safeguards:**

ICE safeguards records in this system in accordance with applicable rules and

policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**Retention and disposal:**

ICE retains records of arrests, detentions, and removals in EID for one hundred (100) years; records concerning U.S. Marshals Service prisoners for ten (10) years; fingerprints and photographs collected using EAGLE application for up to fifty (50) days in the cache of an encrypted Government laptop or other IT device; Enforcement Integrated Database Data Mart (EID-DM), ENFORCE Alien Removal Module Data Mart (EARM-DM), and ICE Integrated Decision Support (IIDS) records for seventy-five (75) years; user account management records (UAM) for ten (10) years following an individual's separation of employment from federal service; statistical records for ten (10) years; audit files for fifteen (15) years; and backup files for up to one (1) month.

ICE retains records in the PCTS for 25 years from the termination of parole. The ODLS uses an extract of EID data about current detainees and detainees that were released during the last sixty (60) days. Records are retained in ODLS for as long as they meet the extract criteria. The eTD System stores travel documents for twenty (20) years. The ATD system's records are not yet the subject of a records schedule, however, ICE is in the process of developing one and will propose the records are retained for ten years from the end of the calendar year in which the alien is removed from the ATD program.

**System Manager and address:**

Executive Associate Director, Office of Homeland Security Investigations, U.S.  
Immigration & Customs Enforcement, 500 12<sup>th</sup> Street SW, Washington, D.C. 20536.

**Notification procedure:**

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, ICE will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to ICE's Freedom of Information Act (FOIA) Officer, whose contact information can be found at <http://www.ice.gov/foia> under "Contacts." When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov/foia> or 1-866-431-0486. In addition you should provide the following:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;

- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

In processing requests for access to information in this system, DHS/ICE will review not only the records in the operational system, but also the records that were replicated on the unclassified and classified networks, and based on this notice provide appropriate access to the information.

**Record access procedures:**

See “Notification procedure” above.

**Contesting record procedures:**

See “Notification procedure” above.

**Record source categories:**

Records in the system are supplied by several sources. In general, information is obtained from individuals covered by this system, and other federal, state, local, tribal, or foreign governments. More specifically, DHS/ICE-011 records derive from the following sources:

- a) Individuals covered by the system and other individuals (e.g., witnesses, family



members);

- b) Other federal, state, local, tribal, or foreign governments and government information systems;
- c) Business records;
- d) Evidence, contraband, and other seized material; and
- e) Public and commercial sources.

**Exemptions claimed for the system:**

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8); (f); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H); and (f). When a record received from another system has been exempted in that source system under 5 U.S.C. 552a(j)(2) or (k)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

Dated: October 5, 2016

Jonathan R. Cantor,  
Acting Chief Privacy Officer,  
Department of Homeland Security.

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